

STATE OF INDIANA)
) SS:
COUNTY OF BOONE)

IN THE BOONE CIRCUIT COURT

CAUSE NO. ~~06801~~ 0702 PL 0107

STATE OF INDIANA,)
)
Plaintiff,)
)
v.)
)
DAVID F. ROBBINS, JR.,)
individually and doing business as)
CROSSROADS-MUSIC.ORG,)
)
Defendant.)

FILED

FEB 05 2007

Dennis L. Kogan
CLERK BOONE CIRCUIT COURT

**COMPLAINT FOR INJUNCTION,
RESTITUTION, COSTS, AND CIVIL PENALTIES**

The Plaintiff, State of Indiana, by Attorney General Steve Carter and Deputy Attorney General Terry Tolliver, petitions the Court pursuant to the Indiana Deceptive Consumer Sales Act, Indiana Code § 24-5-0.5-1, *et seq.*, for injunctive relief, consumer restitution, investigative costs, civil penalties, and other relief.

PARTIES

1. The Plaintiff, State of Indiana, is authorized to bring this action and to seek injunctive and other statutory relief pursuant to Ind. Code § 24-5-0.5-4(c).
2. At all times relevant to this complaint, the Defendant, David F. Robbins, Jr., individually and doing business as Crossroads Music, was an individual engaged in the sale of musical instruments and merchandise from his principal place of business located in Boone County at 216 W. Main Street, Lebanon, Indiana, 46052.

FACTS

3. Since at least April 22, 2006, the Defendant has represented he would sell musical instruments and other related merchandise to consumers.

4. Based upon these representations, on the following dates, the following consumers purchased musical instruments and other related merchandise from the Defendant via the Internet, or in person, and paid the Defendant the following amounts:

a. 05/10/06	Alexander Aldrich of San Francisco, California	\$ 255.00;
b. 06/20/06	Jared Knowlton of Farmington, Utah	\$ 31.95;
c. 06/20/06	Keith Schneider of Milwaukee, Wisconsin	\$ 299.89;
d. 06/29/06	Izumi Izuta of Tokyo, Japan	\$ 299.94;
e. 07/11/06	Donald Tatlock of Seymour, Indiana	\$ 371.90;
f. 07/30/06	Anthony Pensule of Lewisburg, West Virginia	\$ 22.20;
g. 08/12/06	Gabriel Perez of Miami Springs, Florida	\$ 47.84;
h. 08/16/06	Darryll Collins of Ona, West Virginia	\$ 25.80;
i. 09/01/06	Christine Fromenteau of Saint Brieuc, France	\$ 526.80;
j. 10/05/06	Cliff Oliver of Columbia, South Carolina	\$ 44.81;
k. 11/24/06	Mary Lou Bell of Avon, Indiana	\$ 370.98;
l. 11/28/06	Kathy Visentin of Ontario, Canada	\$ 124.85;
m. 12/04/06	Julie Moore of Houma, Louisiana	\$ 267.69; and
n. 12/15/06	William Lawson of Honolulu, Hawaii	\$ 172.75.
		Total: \$2,862.40

5. Pursuant to Ind. Code § 24-5-0.5-3(a)(10), the Defendant is presumed to have represented at the time of sale he would deliver the merchandise to the consumers, as originally represented, within a reasonable period of time.

6. As of today, the Defendant has yet to either deliver the merchandise, as originally represented, or to provide refunds to the Consumers identified in Paragraph 4 above.

COUNT I - VIOLATIONS OF THE DECEPTIVE CONSUMER SALES ACT

7. The Plaintiff realleges and incorporates by reference the allegations contained in paragraphs 1 through 6 above.

8. The transactions referred to in paragraph 4 are "consumer transactions" as defined by Ind. Code § 24-5-0.5-2(a)(1).

9. The Defendant is a "supplier" as defined by Ind. Code § 24-5-0.5-2(a)(3).

10. The Defendant's representations to consumers he would sell items to those consumers, when the Defendant knew or reasonably should have known the consumers would not receive the items as represented, or any other such benefit, as referenced in paragraph 4, are violations of the Indiana Deceptive Consumer Sales Act, Ind. Code § 24-5-0.5-3(a)(1).

11. By representing the Defendant could deliver the merchandise sold to consumers, or otherwise complete the subject of the consumer transaction, within a reasonable amount of time, when he knew or reasonably should have known he could not do so, as referenced in paragraph 5, the Defendant violated Ind. Code §24-5-0.5-3(a)(10).

12. By representing the consumers would be able to purchase the merchandise as advertised by the Defendant, when the Defendant did not intend to sell the merchandise, as referenced in paragraph 4, the Defendant violated Ind. Code §24-5-0.5-3(a)(11).

**COUNT II – KNOWING AND INTENTIONAL VIOLATIONS OF
THE DECEPTIVE CONSUMER SALES ACT**

13. The Plaintiff realleges and incorporates by reference the allegations contained in paragraphs 1 through 12 above.

14. The misrepresentations and deceptive acts set forth in paragraphs 4 and 5 were committed by the Defendant with knowledge and intent to deceive.

RELIEF

WHEREFORE, the Plaintiff, State of Indiana, requests the Court enter judgment against Defendant, David F. Robbins, Jr., individually and doing business as Crossroads-Music.org, enjoining the Defendant from the following:

- a. representing, expressly or by implication, the subject of a consumer transaction has sponsorship, approval, characteristics, accessories, uses, or benefits it does not have, which the Defendant knows or reasonably should know it does not have;
- b. representing, expressly or by implication, the Defendant is able to deliver or complete the subject of a consumer transaction within a reasonable period of time, when the Defendant knows or reasonably should know he cannot; and
- c. representing expressly or by implication consumers will be able to purchase the subject of a consumer transaction as advertised by the Defendant, if the Defendant does not intend to sell it.

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AND WHEREFORE, the Plaintiff, State of Indiana, further requests the Court enter judgment against the Defendant for the following relief:

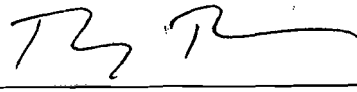
- a. cancellation of all unlawful consumer contracts including, but not limited to, those contracts entered into with those persons identified in paragraph 4, pursuant to Ind. Code § 24-5-0.5-4(d);
- b. consumer restitution pursuant to Ind. Code § 24-5-0.5-4(c)(2), for reimbursement of all deposits, down payments, and other funds remitted by consumers for the purchase of merchandise from the Defendant including, but not limited to, those persons identified in paragraph 4.
- c. costs pursuant to Ind. Code § 24-5-0.5-4(c)(3), awarding the Office of the Attorney General its reasonable expenses incurred in the investigation and prosecution of this action;
- d. On Count II of the Plaintiff's Complaint, civil penalties pursuant to Ind. Code § 24-5-0.5-4(g) for the Defendant's knowing violations of the Deceptive Consumer Sales Act, in the amount of Five Thousand Dollars (\$5,000.00) per violation, payable to the State of Indiana;
- e. On Count II of the Plaintiff's Complaint, civil penalties pursuant to Ind. Code § 24-5-0.5-8 for the Defendant's intentional violations of the Deceptive Consumer Sales Act, in the amount of Five Hundred Dollars (\$500.00) per violation, payable to the State of Indiana; and

f. All other just and proper relief.

Respectfully submitted,

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By:


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